

18-1611

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION - DAYTON**

**In The Matter Of**

**Rachel L. Bates**

**Debtor**

**Chapter 7**

**Case No. 18-32107**

**Judge: GUY R. HUMPHREY**

**MOTION FOR RELIEF FROM STAY/  
2406 BEATRICE STREET,  
SPRINGFIELD, OH 45503**

Secured Creditor, Nationstar Mortgage LLC d/b/a Mr. Cooper (hereinafter, "Movant") hereby moves this Court pursuant to 11 U.S.C. 362(d) and Rules 4001, 9013, and 9014 of the Rules of Bankruptcy Procedure & Local Bankruptcy Rules 4001-1, 9013-1 and 9013-3 for an Order modifying the automatic stay provided under 11 U.S.C. 362(a) in order to permit Movant to commence a foreclosure action in State Court against debtor and/or to otherwise enforce its lien rights against the property. The grounds upon which this Motion is made are set forth in the Memorandum in Support attached hereto.

Respectfully submitted,

**/s/ Christopher P. Kennedy**

Carlisle, McNellie, Rini, Kramer & Ulrich  
Co., L.P.A.

By: Phyllis A. Ulrich (0055291)

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Attorneys for Movant:

Nationstar Mortgage LLC d/b/a Mr. Cooper

**MEMORANDUM IN SUPPORT OF MOTION**

In Support of this Motion for Relief from Stay, Movant hereby represents as follows:

1. This Motion is a request for modification of the stay of proceedings against certain property of the Debtor, Rachel L. Bates, (the "Debtor"), pursuant to Section 362(d) of the United States Bankruptcy Code.

2. On July 6, 2018, the Debtor filed a petition seeking relief under Chapter 7 of the Bankruptcy Code.

3. Prior to this bankruptcy, on October 23, 2015, Rachel L. Bates executed and delivered to Nationstar Mortgage LLC dba Greenlight Loans, its successors and assigns, a promissory note (the "Note"), a copy of which is attached hereto, marked Exhibit "A". The Note was transferred to Movant as evidenced by the blank endorsement on the Note.

4. As security for the payment of the Note, Rachel L. Bates and Stephen Taylor Bates executed and delivered to Mortgage Electronic Registration Systems, Inc., as nominee for Nationstar Mortgage LLC dba Greenlight Loans, its successors and assigns, a mortgage deed for the real property at 2406 Beatrice Street, Springfield, OH 45503 (the "Property"). The complete legal description of the Property is contained in the mortgage, a copy of which is attached hereto as Exhibit "B". The mortgage was delivered to the Recorder of Clark County on November 20, 2015 at 3:54 p.m. and was recorded in Instrument No. 201500015534, of the mortgage records of said county and thereby became a good and valid first lien upon the Property. The mortgage was assigned to Movant as evidenced by the assignment of mortgage attached hereto as Exhibit "C" and made a part hereof.

5. Movant attaches hereto a true and accurate copy of the recorded title deed required by Local Rule as Exhibit "D". Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay, foreclose, approve short sale or execute a Deed in Lieu if necessary.

6. At the time of the Debtor's filing of the Chapter 7 petition, the Debtor owed Movant the sum of \$83,047.52, plus interest at the rate of 4.50% from March 1, 2018, plus late charges as provided for in the mortgage deed described below, plus advances made by Movant for the payment of taxes, assessments, insurance premiums and other costs incurred for the protection of Property securing the Note. The Property is valued at \$57,680.00 according to the Clark County Auditor. Debtor's loan account is contractually due for the April 1, 2018 payment and all

subsequent payments, late charges and all charges assessable to the loan account of the Debtor. The first payment default for this loan was April 1, 2018. Stephen Taylor Bates may also have in interest in the property.

7. Movant is desirous of commencing an action in state court in foreclosure to enforce its rights under the "cause" provision of Section 362(d)(1) of the Bankruptcy Code because Movant does not have adequate protection of its interest in the Property.

8. For the reasons stated herein, Movant respectfully requests that this Court order that the automatic stay of proceedings under Section 362(a) of the Bankruptcy Code be modified to permit it to commence a foreclosure action in state court and/or to otherwise enforce its lien rights against the Property.

9. Movant further requests that this Court provide an opportunity for hearing upon this Motion in accordance with law.

10. Movant further requests that notwithstanding the provisions of 4001(a)(3) of the Federal Rules of Bankruptcy Procedure, that the relief from stay not be stayed for 14 days, but shall become effective immediately.

11. This request for relief from the automatic stay by Movant does not seek to affect the right of the Chapter 7 Trustee with relation to the estate's interest in the Property securing the debt owed to Movant.

12. Movant attaches hereto the worksheet required by Local Rule as Exhibit "E".

Date: August 13, 2018

Respectfully submitted,

/s/ Christopher P. Kennedy

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Co., L.P.A.

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Attorneys for Movant:

Nationstar Mortgage LLC d/b/a Mr. Cooper

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Motion for Relief was served (I) **electronically** on the date of filing through the Court's ECF System on:

David M. Hollingsworth, on behalf of Rachel L. Bates, Debtor, at enonlaw@woh.rr.com  
Donald F. Harker, III, on behalf of the Chapter 7 Trustee's office at dharker7@donet.com  
Office of the United States Trustee, at ustpregion09.cb.ecf@usdoj.gov

And (ii) by **ordinary U.S. Mail** on August 13, 2018 addressed to:

Rachel L. Bates, Debtor, 585 Queensgate Road, Springboro, OH 45066  
Stephen Taylor Bates, 7544 Wrenview Drive, Springfield, OH 45502  
Attn: Capital One Auto Finance, a division of Capital One, N.A. Department, AIS Portfolio  
Services, LP, Account XX8682, 4515 N. Santa Fe Ave. Dept. APS, Oklahoma City, OK  
73118

**/s/ Christopher P. Kennedy**

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